

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

SUPPLEMENTARY GENERAL CONDITIONS

SUPPLIES AND SERVICES

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TABLE OF CONTENTS

I - GENERAL PROVISIONS	3
SCOPE	3
GENERAL OBLIGATIONS OF THE PARTIES	3
HEALTH AND SAFETY AND WORKING CONDITIONS	5
PROTECTION OF THE ENVIRONMENT – CONSIDERATION OF ENVIRONMENTAL ISSUES – ASBESTOS-RELATED RISK	5
INSURANCE – CIVIL LIABILITY	6
REPARATION OF DAMAGE	6
PRICES - PRICE ADJUSTMENTS – SETTLEMENT OF ACCOUNTS - INVOICING.....	6
OPTIONAL DELIVERABLES	6
PRICES	6
TERMS OF PAYMENT – INVOICING.....	7
SETTLEMENT IN THE EVENT OF SUB-CONTRACTING OR CO-CONTRACTING	9
TIME-LIMITS FOR PERFORMANCE – PENALTIES AND BONUSES.....	9
TIME-LIMITS FOR PERFORMANCE	9
PENALTIES AND BONUSES.....	10
PERFORMANCE	11
WORK SITES	11
EQUIPMENT, OBJECTS AND SUPPLIES ENTRUSTED TO THE PROVIDER	12
STORAGE, PACKAGING AND TRANSPORT	12
VERIFICATIONS, DELIVERY AND WARRANTY	13
DELIVERY	13
FACTORY SUPERVISION	13
VERIFICATION OPERATIONS	13
PERFORMANCE OF VERIFICATION OPERATIONS	14
DECISIONS FOLLOWING VERIFICATION.....	14
ACCEPTANCE, DEFERRAL, PRICE REDUCTION OR REJECTION.....	15
TRANSFER OF OWNERSHIP.....	15
MAINTENANCE OF DELIVERABLES.....	16
WARRANTY	17
AMENDMENT AND TERMINATION OF THE CONTRACT	17
TERMINATION	17
STATEMENT OF ACCOUNT ON TERMINATION OF THE CONTRACT	19
HANDOVER OF DELIVERABLES AND OF MATERIAL RESOURCES PERMITTING THE PERFORMANCE OF CONTRACTS	20
SUPPLY OF DELIVERABLES AT THE PROVIDER'S EXPENSE AND RISK	20

I - GENERAL PROVISIONS

Scope

The provisions of these supplementary general conditions shall apply to contracts that are entered into to ensure the proper functioning of the Council, and which make express reference hereto. The provisions of these supplementary general conditions shall in no case apply to the supply of intellectual services.

These supplementary general conditions supplement the Council of Europe General Conditions and may themselves be modified or supplemented by Specific contractual documents. Specific contractual documents shall include a list of the articles of the general conditions to which exceptions are made.

General obligations of the parties

2.1 Form of notifications and information

Notification to the Provider of any decision or information given by the Council from which a time-limit is to be calculated shall be:

- delivered direct to the Provider, or its duly authorised representative, against issue of a receipt;
- made by online communication or using electronic media;
- or made by any other means permitting certification of the date and time of receipt of the decision or information.

Such notification may be made to the Provider's address as stipulated in the contractual documents

In the event of a consortium, the notification shall be made to the agent acting for the entire consortium. Electronic documents exchanged shall not require signature, except in the case of invoices.

2.2 Calculation of time-limits for the supply of deliverables

2.2.1 Any time-limit stipulated in the contract shall begin running at 00.00 hours on the day following the date of the event from which the time-limit is calculated.

2.2.2 When a time-limit is laid down in days, it shall be understood to be expressed in calendar days and shall expire at midnight on the last day of the time-limit.

2.2.3 When a time-limit is laid down in working days, it shall be understood to exclude Saturdays, Sundays and public holidays. If the last day of the time-limit is a Saturday, Sunday or public holiday, the time-limit shall be extended to the end of the first subsequent working day at midnight.

2.2.4 When a time-limit is laid down in months, it shall be reckoned from the start day to the same-numbered day of the month concerned. If there is no same-numbered day in the month during which the time-limit ends, it shall expire on the last day of that month at midnight.

2.2.5 A time-limit applicable to the Provider shall not include the time needed by the Council to perform verifications and take its decision in accordance with Chapter VI.

2.3 Representation of the Council

As from notification of the contract, the Council shall appoint a natural person authorised to represent it in dealings with the Provider for the purposes of performing the contract. Other natural persons may be authorised by the Council during the performance of the contract. As from the notification of their name(s) to the Provider, by the required date or contractual deadline, the representative(s) shall be deemed to have sufficient authority to take any necessary decisions binding the Council.

2.4 Representation of the Provider

2.4.1 The Provider shall appoint one or more natural persons authorised to represent it in dealings with the Council for the purpose of performing the contract. Other natural persons may be authorised by the Provider during the performance of the contract. As from the notification of their name(s) to the Council, by the required date or contractual deadline, the representative(s) shall be deemed to have sufficient authority to take any necessary decisions binding the Provider.

2.4.2 Notification of changes in the Provider's legal or economic situation

The Provider shall notify the Council without delay of any changes occurring during the performance of the contract which concern:

- persons authorised to enter into undertakings on its behalf;
- the legal form under which it pursues its activities; and/or
- the information it provided concerning acceptance of a sub-contractor or approval of terms of payment; and in general any significant changes in its operations which may affect the performance of the contract.

2.5 Sub-contracting of service contracts

2.5.1 Appointment of sub-contractors

2.5.1.1 If the acceptance of one or more sub-contractors does not result from acceptance of the bid, their appointment shall be confirmed after the Council has given its agreement through a supplementary clause or specific document signed by the Council and the Provider concluding the sub-contract; if the Provider is a co-contractor but is not the agent for its consortium, the supplementary clause or specific document shall be countersigned by the consortium's agent.

2.5.1.2 Upon signature of the specific document establishing acceptance of the sub-contractor and approval of the terms of payment, the Council shall transmit copies of it to the Provider and each sub-contractor concerned. Upon receipt of this notification, the Provider shall inform the Council of the name of the natural person authorised to represent a sub-contractor.

2.5.1.3 The Provider shall transmit the sub-contract and any supplementary clauses to the Council at the latter's request. In the event of failure to produce these documents within fifteen (15) days from receipt of notice to do so, served by the Council, the Provider shall incur a penalty equivalent to 1/3 000 of the pre-tax amount of the contract or of the tranche concerned, as modified by any supplementary clauses, or, failing that, of the amount of the relevant purchase order. This penalty shall apply per day's delay.

2.5.2 Default

In the event of default by the agent for a consortium, its members shall appoint a replacement. If they fail to do so within eight (8) days from receipt of notice served by the Council to proceed with this

appointment, the co-contractor whose name appears in second place in the tender document shall become the new agent for the consortium.

2.6 Purchase Orders

2.6.1 Purchase orders shall be dated and numbered. The Provider shall acknowledge receipt of such purchase orders, indicating the date of such receipt.

2.6.2 When the Provider considers it necessary to submit observations concerning the requirements of a purchase order, it shall notify them to the signatory of the purchase order concerned within fifteen (15) days from the date of receipt of the purchase order, failing which the observations shall be time-barred.

2.6.3 The Provider shall comply with purchase orders notified to it, whether or not observations have been submitted concerning those purchase orders.

2.6.4. In the event of co-contracting, purchase orders shall be addressed to the consortium's agent, who alone shall be entitled to submit observations to the Council.

2.6.5 Purchase orders concerning sub-contracted deliverables shall be addressed to the Provider, who alone shall be entitled to submit observations.

Health and safety and working conditions

3.1 The Provider shall be required to comply with the laws and regulations on health and safety and working conditions of the country where its staff are employed. The Provider shall also comply with the provisions of the eight fundamental conventions of the International Labour Organization (ILO).

3.2 In the event of a change in the legislation on health and safety and working conditions during the performance of the contract, the Provider shall comply with it as soon as possible.

3.3 The Provider shall inform its sub-contractors that the obligations laid down in this article apply to them. It shall remain responsible for compliance with these obligations throughout the contract's duration.

Protection of the environment – consideration of environmental issues – asbestos-related risk

The Provider shall ensure that the deliverables comply with legislative and regulatory requirements in force concerning the environment, human health and safety (in particular but not exclusively regarding asbestos-related risks) and neighbourhood conservation. It shall furnish proof thereof, at the Council's request, at any time during the performance of the contract or the warranty period for the deliverables.

To this end, the Provider shall take measures to control any potential adverse effects on the environment, in particular waste produced during the contract's performance, emissions of dust, smoke or pollutants, noise, repercussions for fauna and flora and the pollution of surface and/or ground water.

In the event of a change in environmental protection legislation, in particular with regard to the prevention of asbestos-related risks, during the performance of the contract, any modifications requested by the contracting authority's representative so as to comply with the new rules shall result in the signature of one or more supplementary clauses by the parties to the contract.

Insurance – Civil liability

5.1 The Provider shall take out insurance policies to cover its liability with regard to the Council and third parties in respect of accidents or damage caused by the supply of the deliverables.

5.2 Within fifteen days of the contract's notification, and before beginning performance under the contract, the Provider shall provide proof that it holds these insurance policies by means of a certificate attesting to the scope of the liability covered. The Provider shall produce such a certificate at any time during the performance of the contract at the request of the contracting authority and within fifteen days of receipt of that request.

5.3 The Council shall have no liability vis-à-vis the Provider's operatives with regard to any risk of illness or accident which may arise during the performance of the contract. The Provider hereby certifies that its status and legal situation are in conformity with the applicable law and regulations and permit it to carry out the tasks provided for in the contract.

Reparation of damage

6.1 The Provider shall be liable for damage of any kind caused by the Provider to staff or property of the Council in connection with the performance of the contract.

The Council shall be liable for damage of any kind caused to the Provider's staff or property in the event of a clear case of negligence by the Council linked to the performance of the contract.

6.2 As long as supplies are the property of the Provider, except in the case of negligence by the Council, the Provider shall retain sole liability for any damage to such supplies resulting from any event other than a duly recognised natural disaster. This provision shall not apply to damage caused by equipment supplied by the Council which is added to the Provider's equipment.

6.3 The Provider shall indemnify the Council in respect of any claims concerning damage arising from equipment supplied by the Provider or any action by its operatives which affects the premises where the equipment is utilised, including claims from neighbours.

PRICES - PRICE ADJUSTMENTS – SETTLEMENT OF ACCOUNTS - INVOICING

Optional deliverables

Deliverables appearing as options or alternatives in the technical specifications and in the breakdown of the overall, all-inclusive price shall, where applicable, be the subject of a confirmation letter. The Provider shall remain bound by the proposed amount as from the date of the contract's signature. The Provider shall not be entitled to any compensation in the event that the supply of the deliverables concerned is not confirmed.

Prices

8.1 General rules

8.1.1 Prices shall be deemed firm.

8.1.2 Prices shall be deemed to include all taxes or other charges mandatorily levied on the deliverables, the costs of packaging, storage, wrapping, insurance and carriage to the place of delivery, any other expenditure necessary to the supply of the deliverables, and risk margins and profit margins.

However, the Provider shall remain liable for expenses incurred in the event of the Provider's failure to request the administrative documents required for transport purposes or a delay in requesting such a document. Handling and transport costs resulting from a deferral or from the rejection of deliverables shall be borne by the Provider.

8.1.3 Contracts including maintenance services

The Provider's maintenance charges shall include the cost of parts, tools or ingredients and the related labour costs, including travel expenses and any expenses incurred in making the modifications referred to in Article 23.1.

Maintenance charges shall not include the following services, the cost of which shall be borne by the Council:

- modifications requested by the Council to the original specifications;
- repair of operating defects caused by the Council's negligence or by use of the equipment in a manner incompatible with the instructions given in the Provider's documents;
- repair of operating defects caused by deficiencies in installations under the Council's responsibility;
- repair of operating defects caused by the addition of equipment obtained from another source or carried out by a party other than the Provider or a person appointed by the Provider to perform this work.

8.2 Determination and adjustment of prices

8.2.1 When the contract provides for the updating and/or review of prices, the latter shall be reviewed or updated under the conditions, by means of the calculation methods and reference indices, and at the dates or frequencies provided for in the Specific contractual documents.

8.2.2 When firm prices are subject to updating and/or review, the adjustment coefficient shall be rounded up to the nearest thousandth of one percent.

8.2.3 When a contract is concluded with a consortium of economic operators, the prices of the deliverables attributable to each Provider under the contract shall be deemed to include the corresponding costs and margins, including charges which each Provider may be required to reimburse to the agent.

Terms of payment – Invoicing

9.1 The Council shall not make any advance to the Provider.

9.2 When the Specific contractual documents make provision for the payment of deposits, the amounts and timing thereof shall be determined by the Council on the basis of a description, provided by the Provider, of the deliverables supplied and their price. A claim for payment shall be submitted in respect of each deposit.

9.3 Claims for payment

When submitting a claim for payment to the Council, the Provider shall append the relevant supporting documents thereto.

9.3.1 A claim for payment shall be dated. It shall quote the contract's references and shall indicate where applicable:

- the price of deliverables accepted, in accordance with the contractual provisions, after deduction, where applicable, of price reductions determined in accordance with Article 21.5;
- when payments are to be made upon completion of certain stages in the contract's performance, the amount corresponding to the stage in question;
- in the event of a joint-liability-only consortium, the prices of the deliverables supplied by each economic operator;
- in the event of sub-contracting, the nature of the deliverables supplied by the sub-contractor.

9.3.2 When deliverables are supplied at the Provider's risk and expense and the Provider has defaulted, any excess cost borne by the Council, corresponding to the difference between the price the Council should have paid to the Provider for the supply of the deliverables and the price actually paid to have them supplied by a replacement Provider, shall be deducted from the sums due to the Provider in respect of accepted deliverables.

9.3.3 Unit prices may be sub-divided to take account of work in progress on deliverables.

9.3.4 All-inclusive prices may be sub-divided if the work on the deliverable or part of a deliverable concerned is not completed. In that case a share of the price equal to the percentage progress of the work shall be charged.

9.4 Calculation of the amount due by the Council in respect of deliverables supplied

9.4.1 The amounts due may be determined on the basis of a joint inspection, if any Specific contractual documents so provide.

9.4.2 When Specific contractual documents provide for the payment of deposits upon the completion of certain stages in the contract's performance, and when the fraction of the price to be paid at each stage is specified therein, the claim for payment shall indicate:

- for each part of the contract delivered, the corresponding fraction;
- for each part of the contract on which work has begun, following the Council's agreement, a share of the corresponding fraction equivalent to the percentage progress of the work on that part of the contract.

9.5 Submission of claims for payment

9.5.1 Claims for payment shall be submitted either:

- on the dates set out in the contract; or
- after acceptance of the deliverables in accordance with the contractual provisions.

9.5.2 A claim for payment may specify, where appropriate, any supplies which, under the contractual provisions or by agreement between the parties, are to be paid for while remaining in storage on the Provider's premises.

9.6 Acceptance of claims for payment by the Council

The Council shall either accept or rectify a claim for payment. It shall determine the amount to be paid and, if it differs from the amount indicated in the claim for payment, notify the amount, as determined, to the Provider.

9.7 Final payment and part-payments

9.7.1 A claim for payment shall be submitted to the Council following the acceptance decision.

A claim for payment may also concern a part-payment for the deliverables supplied when any Specific contractual documents provide that payments shall be made upon the completion of certain stages of the work on the deliverables provided for in the contract.

9.7.2 If, after receiving notice to do so, the Provider fails to produce a claim for payment within forty-five days from the acceptance of the deliverables, the Council may proceed with the settlement on its own initiative based on a statement of account which it has drawn up. This statement of account shall be notified to the Provider.

9.7.3 If the Provider disputes the sums due, the Council shall pay the sums it has accepted. Upon settlement of the dispute, the Council shall pay any additional amount, if applicable.

Settlement in the event of sub-contracting or co-contracting

10.1 Provisions relating to co-contracting

10.1.1 In the event of a joint-liability-only consortium, each member of the consortium shall receive directly the sums corresponding to the supply of its own deliverables.

10.1.2 If the consortium is jointly and severally liable, the payment shall be made into a single account managed by the consortium's agent.

10.1.3 Whatever the form taken by the consortium, only the agent shall be entitled to submit a claim for payment to the Council. In the event of a joint-liability-only consortium, the claim for payment submitted by the agent shall be divided into as many shares as there are consortium members who should receive a separate payment. Each party shall indicate the information required for payment of the economic operator concerned.

10.1.4 Only the agent shall be entitled to submit or transmit consortium members' complaints.

10.2 No provision shall be made for direct payments to the sub-contractors of a Provider or a consortium.

TIME-LIMITS FOR PERFORMANCE – PENALTIES AND BONUSES

Time-limits for performance

11.1.1 The time-limit for performance of a contract or a purchase order shall begin on the date of its notification.

11.1.2 The time-limit for performance of a conditional tranche shall begin on the date of notification of the confirmation decision. Any changes made to the content of a conditional tranche, on grounds of partial availability of the necessary funding, shall be the subject of a written supplementary clause and accepted by both parties.

The Supplier shall not be entitled to any claim in the event of the services concerned not being implemented.

11.1.3 If the deliverables are to be supplied at the Council's premises, the expiry date of the time-limit for performance shall be the delivery or completion date.

11.1.4 When the contract provides that acceptance shall take place in the Provider's premises, the expiry date of the time-limit for performance shall be the planned acceptance date.

11.1.5 For delivery of a study, the expiry date of the time-limit for performance shall be the date of submission of the study to the Council for verification.

11.1.6 If deliverables have not been completed by the contract's expiry date, the time-limit for performance of the deliverables in question shall expire on the contract's expiry date, with the exception of purchase orders issued during the contract's validity.

11.2 Extension of the time-limit for performance

11.2.1 When the Provider is unable to comply with a time-limit for performance through the Council's fault or as a result of an event constituting a case of force majeure, the Council shall extend the time-limit concerned. A time-limit extended in this way shall have the same effects as the contractual time-limit.

11.2.2 To obtain this extension, the Provider shall inform the Council of the reasons preventing the performance of the contract within the contractual time-limit. The Provider shall be allowed fifteen (15) days from the date on which the reasons became apparent in which to supply this information, or the period up to the contract's expiry date should the contract be due to expire within less than fifteen (15) days. The Provider shall simultaneously inform the Council of the requested extension period.

11.2.3 The Council shall notify its decision within fifteen (15) days from the receipt of the Provider's request, provided that the contract does not terminate beforehand.

11.2.4 No request for an extension of a time-limit may be submitted after the contractual time-limit for the supply of a deliverable has expired.

11.3 Contracts

The contractual time-limits for performance shall be specified in the Specific contractual documents. Any modification of these time-limits by the Council shall be notified.

Penalties and bonuses

12.1.1 Late performance penalties shall begin to run, without any notice having to be served, as from the day following the date of expiry of the contractual time-limit for the supply of the deliverables, subject to the provisions of Article 11.2. The method of calculation of such penalties shall be set out in the Specific contractual documents.

12.1.2 Once the amount of the penalties has been determined, they shall be deducted from the updated or reviewed contract price.

12.2 Unavailability penalties in maintenance contracts

12.2.1 Equipment shall be deemed unavailable when, through no fault of the Council and outside periods of preventive maintenance work, its use is impossible either because of the malfunctioning of a unit or device, or the non-performance of one of its functions, or because of the unavailability of another piece of equipment to which it is linked via connections supplied and maintained by the Provider and on which the performance of the work depends at the time of the incident.

12.2.2 Unavailability shall begin:

- in the event of on-site maintenance, at the time when the Provider receives the maintenance request. When access to the defective equipment by the Provider's operators is delayed through the Council's fault, the period of unavailability shall be suspended until effective access becomes possible;
- in the event of maintenance on the Provider's premises, at the time of delivery of the defective element to the Provider or its duly authorised representative.

12.2.3 Unavailability shall end when the elements are again made available to the Council, in good working order. However, if the repaired elements become unavailable again, for the same reasons, within a period of eight hours' use following their repair, the unavailability period shall be calculated from the initial finding of unavailability.

12.2.4 The Provider shall inform the Council of the expected period of unavailability when that period exceeds the limits set out in the paragraph below.

12.2.5 Except in a case of force majeure, when the unavailability period exceeds the limits set out below, the Provider shall incur penalties.

These limits shall be:

- eight working hours for on-site maintenance;
- fifteen consecutive days for maintenance on the Provider's premises.

The method of calculating the penalty shall be set out in the Specific contractual documents.

12.3 No bonus for early delivery shall be awarded to the Provider.

12.4 Force majeure

In a case of force majeure, the parties shall be released from any liability which they may incur under this contract, without the payment of any financial compensation. Force majeure is defined as including the following: exceptional weather problems, earthquakes, strikes affecting air travel, attacks, a state of war, health risks or other events that would require a party to cancel the contract.

If a case of force majeure arises, each party shall be required to notify the other party thereof in writing, within a period of five (5) days.

PERFORMANCE

Work sites

13.1 When work on deliverables is not carried out on the Council's premises, the Provider shall inform the Council, upon request, of the work site. The Council may visit the location concerned to monitor the work's progress. Access to work sites shall be confined to the Council's representatives alone.

13.2 Persons appointed by the Council for this purpose shall have freedom of access solely to areas concerned by the performance of the work on the deliverables provided for in the contract, in accordance with the safety and security requirements applicable to the relevant location. They shall be bound by the confidentiality requirements set out in the General Conditions of the Council of Europe.

13.3 Should the Provider hinder the Council from exercising its right of supervision during the performance of the contract, the Provider shall be liable to the penalties provided for in Article 25.4.

Equipment, objects and supplies entrusted to the Provider

14.1 If the Provider receives equipment or objects to be repaired, modified or maintained along with supplies, consisting of finished or semi-finished products or raw materials, the equipment, objects and any supplies not utilised shall be returned to the location, and on the date, specified in the specific contractual documents.

14.2 The Provider shall be liable for the storage, maintenance and use of any equipment, objects or supplies entrusted to it as soon as the equipment, objects or supplies concerned are effectively made available. The Provider may utilise them solely for the purposes set out in the contract.

14.3 The Provider shall insure equipment, objects and supplies entrusted to it, at its own expense, before they are made available to it and for as long as they remain so. The Provider must be able to justify that it has complied with this insurance obligation at any time during the performance of the contract.

14.4 Costs and risks incurred in transporting equipment, objects or supplies returned to the Council shall be borne by the Provider.

14.5 If the Provider is unable to return, in a good state of repair, any item of equipment, object or supplies not utilised, for any reason whatsoever, the Council shall decide, after having informed itself of the Provider's abilities, what reparatory measure shall be applied: replacement, repair or reimbursement. In the event of reimbursement, the value taken into account shall be the residual value at the date of the article's loss or damage.

14.6 In the event of failure to return, replace, repair or reimburse articles within the time-limits specified in the Specific contractual documents, the Council may withhold payment of sums due for the relevant deliverables until the return, replacement, repair or reimbursement has effectively taken place, subject to a limit corresponding to the residual value of the articles concerned.

14.7 In addition to the reparatory measures referred to above, the contract may be terminated, under the conditions laid down in Article 25.4, in the event of failure to return equipment, damage to or misuse of equipment, or failure to replace, repair or reimburse objects entrusted to the Provider or supplies not utilised.

Storage, packaging and transport

15.1 If the Specific contractual documents require the Provider to store equipment on its premises or in premises belonging to the Council, the Provider shall assume liability for that equipment's safekeeping.

15.2 The quality of packaging shall be appropriate to the transport conditions and methods. Responsibility for this shall lie with the Provider. Packaging shall remain the property of the Provider.

15.3 Transport to the place of delivery shall take place under the Provider's responsibility. Packing, loading and unloading operations shall be carried out under the Provider's responsibility.

VERIFICATIONS, DELIVERY AND WARRANTY

Delivery

16.1 Supplies delivered by the Provider shall be accompanied by a delivery slip, drawn up individually for each addressee, and indicating in particular:

- the date of shipment;
- the purchase order or contract reference;
- the Provider's name and address;
- the nature of the supplies delivered and, where applicable, their distribution among the packages;
- the manufacturing batch number or numbers, where required by the labelling regulations in force.

Each package shall bear a visible serial number, as indicated on the delivery slip. Packages shall enclose a list of their contents.

16.2 Proof of delivery of the supplies shall take the form of a receipt issued to the Provider or of signature of the delivery slip, of which each party shall retain a copy.

Factory supervision

17.1 When the Specific contractual documents provide for the supervision of work being carried out on the deliverables at the production site, the Provider shall be required to comply with the provisions of this article. It shall inform the Council of the factories or workshops in which the different phases of the work on the deliverables will be carried out. It shall ensure that the Council has free access to these factories or workshops and make available to the Council, free of charge, the resources it needs to perform its task.

17.2 The Provider shall inform the Council in a timely manner of all operations which the latter has stated it wishes to attend; failing this, the Council may either instruct the Provider to restart the operations or refuse deliverables concerned by such operations performed without its supervision.

The Council must be informed immediately of any events likely to modify the performance of the planned operations.

17.3 During the performance of the work on the deliverables the Council shall notify the Provider of any unsatisfactory aspect thereof.

17.4 The exercise of supervision shall not affect the Provider's responsibility and shall not limit the Council's right to refuse deliverables found to be defective at the time of their verification.

Verification operations

18.1 The deliverables covered by the contract shall be subject to quantitative and qualitative verifications, so as to ensure that they satisfy the contractual provisions. Verification operations shall be carried out under the conditions laid down in the Specific contractual documents. If the Specific contractual documents say nothing on this matter, verification operations shall be carried out in accordance with customary professional practices in respect of the general supplies or services concerned. Any samples of materials or objects for testing shall be taken by the Council from the deliverables supplied under the terms of the contract.

18.2 The Council shall inform the Provider of the dates and times laid down for verifications, so that the Provider can attend or send a representative. If the Provider, having been duly informed, does not attend

or send a representative this shall not hinder the performance of the verification operations or affect their validity.

Performance of verification operations

This article shall apply subject to the availability of the supplies delivered, in particular due to the performance of customs procedures. The time-limits stipulated in Articles 19, 20 and 21 shall in principle begin to run as from the completion of such procedures.

19.1 Simple operations

At the very time of the supplies' delivery, or of the services' performance, the Council shall carry out any simple quantitative and qualitative verification operations which require only a brief inspection and take little time to implement. It may notify the Provider immediately of its decision, which shall be taken in accordance with the provisions of Article 21. If supplies are perishable, it shall do so without delay. If no decision is notified, the supplies shall be deemed accepted on the date of delivery.

19.2 Other operations

Verification operations other than those referred to in paragraph 1 above shall be carried out by the Council in accordance with the provisions of Article 20 below. The Council shall carry out the verification and notify its decision within fifteen (15) days. Following the expiry of this time-limit the supplies shall be deemed to have been accepted.

For verifications performed in the Council's premises or in any other location of the Council's choice, the starting point for calculation of the time-limit shall be the date of delivery or, where applicable, of bringing into service in the specified location.

For verifications which, under the terms of the contract, are to be performed in the Provider's premises or in any other location of the Provider's choice, the starting point for calculation of the time-limit shall be the date of the notification given by the Provider that all the supplies or services are ready for verification, subject to the provisions of Article 19.3.

19.3 Delivery of separate parts

If the contract provides for the delivery of separate parts, verifications shall be implemented, and a separate decision shall be taken, upon the delivery of each part.

Decisions following verification

20.1 Following quantitative verification operations, if the quantity supplied or the services provided do not meet the contractual requirements, the Council may decide to accept them as they stand or serve notice on the Provider to take the following action within a time-limit specified by the Council:

- either retake possession of any excess quantity supplied;
- or supplement the quantity delivered or complete provision of the service.

A quantitative rectification of the deliverables shall not prevent the performance of qualitative verification operations.

20.2 Following qualitative verification operations the Council shall take a decision on acceptance, deferral, application of a price reduction or rejection in accordance with Article 21 below.

Acceptance, deferral, price reduction or rejection

21.1 The Council shall issue an acceptance of the deliverables, subject to any hidden defects, if they comply with the contractual requirements. Acceptance shall take effect on the date of notification of the acceptance decision to the Provider or, if no decision is taken, within fifteen (15) days of the delivery date.

21.2 If it considers that the deliverables can be accepted only subject to certain rectifications, the Council may decide to defer acceptance of the deliverables by a decision giving reasons. This decision shall invite the Provider to re-submit the rectified deliverables to the Council within fifteen (15) days. The Provider shall give its agreement within ten (10) days from the notification of the deferral decision. If the Provider refuses its agreement or fails to respond, the Council shall have a choice between accepting the deliverables with application of a price reduction or rejecting them, in accordance with the conditions laid down in paragraphs 3 and 4 of this article, within fifteen (15) days from the notification of the Provider's refusal or the expiry of the ten (10) day time-limit referred to above. Should the Council have failed to respond by the end of this fifteen (15) day time-limit, the deliverables shall be deemed rejected.

21.3. If the Provider resubmits rectified deliverables following a deferral decision, the Council shall again benefit from the full time-limit for the performance of verifications as from the deliverables' re-submission by the Provider.

21.4 If the verification operations were carried out in the Council's premises, the Provider shall retake possession of articles concerned by a deferral decision within fifteen (15) days from the notification of that decision. Following the expiry of this time-limit, the verified articles may be evacuated or destroyed by the Council at the Provider's expense. Deliverables of which acceptance has been deferred and which cause a danger or unbearable nuisance if kept on the Council's premises may be evacuated or destroyed immediately at the Provider's expense, following notification given to the latter.

21.5 If the Council considers that the deliverables, albeit not fully compliant with the contractual requirements, can nonetheless be accepted as they stand, it may decide to do so while applying a reduction in their price proportionate to the extent of the deficiencies noted. This decision shall give reasons. It may be notified to the Provider only after the latter has been afforded an opportunity to submit observations.

21.6 If the Council considers that the deliverables cannot be accepted as they stand, it may decide to reject them in full or in part. The rejection decision shall give reasons. It may be taken only after the Provider has been afforded an opportunity to submit observations. In the event of rejection, the Provider shall be required to re-supply the deliverables provided for in the contract.

21.7 The Provider shall retake possession of the rejected deliverables within one month of the notification of the rejection decision. Following the expiry of this time-limit they may be destroyed or evacuated by the Council at the Provider's expense. Rejected deliverables which cause a danger or unbearable nuisance if kept on the Council's premises may be evacuated or destroyed immediately at the Provider's expense, following notification given to the latter.

Transfer of ownership

Acceptance of deliverables shall result in transfer of ownership. If the deliverables are handed over to the Council subsequent to their acceptance, the Provider shall assume liability for their safekeeping until their effective delivery.

Maintenance of deliverables

23.1 Maintenance conditions and approach

If the contract provides for the maintenance of the deliverables supplied, this shall encompass maintenance work requested by the Council, maintenance work in the event of malfunctioning and preventive maintenance.

Maintenance work shall also concern modifications made to equipment at the Provider's initiative. The Council shall be informed in advance of such modifications. The Council may refuse these modifications if they necessitate changes in its operating processes, unless the Provider bears the cost of these changes.

The Provider shall guarantee that equipment under its maintenance will remain suitable for the uses laid down in the contract.

23.2 Access to Council of Europe premises for maintenance operations

23.2.1 When maintenance is carried out in the Council's premises, the maintenance work shall take place within a timespan specified in the Specific contractual documents, known as the intervention period.

23.2.2 The Provider shall comply with the safety, security and access measures in force within the Council. This shall not constitute a ground for the Provider to claim an extension of the time-limit for performance, any form of compensation or a price supplement.

23.2.3 The Council shall guarantee the Provider free access to all premises or areas where it must perform its tasks, subject to the condition that the Provider's staff shall have accepted the access, security and safety rules in force within the Council.

23.2.4 Access to the premises in Strasbourg shall be via a single entrance per building, identified as follows:

- | | |
|--------------------------------|------------------------|
| • Palais de l'Europe: | Entrance II - PC Ouest |
| • D-Building: | Main entrance |
| • Human Rights Building: | Service entrance |
| • Agora Building: | PC Est |
| • M-Building: | Service entrance |
| • European Youth Centre (EYC): | Main entrance |

23.2.5 Deliveries of equipment will be made using the goods unloading area(s) of the relevant building unless the Council has granted an ad hoc derogation.

23.2.6 The Provider shall inform the Council of delivery dates not less than two days in advance and shall supply the registration number(s) of the delivery vehicle(s). The Provider shall be responsible for providing any handling equipment needed for unloading.

23.2.7 In exchange for a currently valid identity document, the Provider and its operatives shall be issued with "passes" permitting them to move around the authorised building. Passes shall be returned at the end of each day. The Council's representative shall be informed of any operations concerned by such measures at least 24 working hours before the beginning of an intervention. The request shall specify:

- the firm's name
- the building concerned
- the type and duration of the work
- each operative's surname and first name

- any specific needs and obligatory regulatory formalities (welding and cutting permits, dust emissions and so on)

Passes shall be strictly personal. Any misuse shall be severely sanctioned. The Provider shall report, within 15 days, any change in the status of persons issued with a pass (changes of posting, persons having left its employment, and so on).

No firm or staff member of a firm shall be authorised to enter a building if the security officer is not in possession of an intervention request drawn up by the project manager.

23.3 Maintenance work performed in the Provider's premises

When the contract provides for maintenance work to be carried out in the Provider's premises, the time-limit for the return of the equipment concerned shall be laid down in the Specific contractual documents. The time-limit shall run from the date of receipt of the defective article at the Provider's premises to the date of delivery of the repaired article or the replacement article to the Council's premises.

Warranty

24.1 Deliverables shall carry at least one year's warranty. The starting point for the warranty period shall be the date of notification of the acceptance decision.

24.2 Under the warranty the Provider shall undertake to repair or replace at its own expense the part of a deliverable that is acknowledged to be defective, except in cases where the defect is attributable to the Council. During the warranty period the Provider shall carry out repairs required by the Council. The warranty shall also cover staff travel costs and the cost of packaging, packing and carriage of the equipment necessary to repair or replace the article concerned. When the Council's enjoyment is impaired during a repair, the Council may require the provision of equivalent replacement equipment.

24.3 The time-limit within which the Provider shall perform the adaptation or repair work required shall be determined by decision of the Council after consulting the Provider

24.4 If the Provider has not implemented required repairs by the time of the warranty's expiry, its validity shall be extended until the completion of those repairs.

AMENDMENT AND TERMINATION OF THE CONTRACT

Termination

Subject to the special provisions set out below, termination shall take effect on the date stipulated in the termination decision or, failing that, on the date of notification.

25.1 The discontinuation of the contract, by decision of the Council of Europe's Committee of Ministers, may not give rise to a claim for compensation by the Supplier other than for the costs corresponding to the works' progress on the day of the Committee of Ministers decision.

25.2 If the Supplier does not fulfil the conditions stipulated in the present contract or those arising from any written supplementary clause accepted by both parties, or if the services delivered, as defined in the contractual documents, are unsatisfactory, the Council shall deem that there has been a breach of contract and may, consequently, refuse to pay the amounts due under the terms of the contract.

25.3 In the cases provided above, the Council of Europe, moreover, reserves the right, at any time and after notifying the Supplier, to terminate the contract. In the event of termination of the contract, the Council of Europe shall pay only the amount corresponding to the services effectively rendered to its full

satisfaction at the time of the contract's termination and it shall require the reimbursement of any amounts already paid in respect of services not rendered.

25.4 The remaining owed amounts shall be paid into the Council's bank account within 60 days of written notice having been served by the Council of Europe on the Supplier on this matter.

25.5 The contract's termination shall not rule out any civil or criminal lawsuits that may be taken against the Supplier owing to its faults.

25.6 Termination on account of extraneous events

25.6.1 Death or legal incapacity of the Provider

In the event of the death or the legal incapacity of the Provider, the Council may terminate the contract or agree to its pursuit by the Provider's successors or a trustee. A transfer clause shall be drawn up to this end.

Termination, if pronounced, shall take effect on the date of death or legal incapacity. The Provider or its heirs shall have no entitlement to compensation.

25.6.2 Receivership or judicial liquidation

The contract shall be terminated in the event of receivership if, after serving of notice, the judicial administrator does not undertake to subscribe to the Provider's obligations.

In the event of the Provider's judicial liquidation the contract shall be terminated following service of notice by the Council which has met with no response. The Provider shall not be entitled to any compensation.

25.6.3 Physical incapacity or default of the Provider

In the event of manifest, lasting physical incapacity of the Provider, such as to jeopardise the proper performance of the contract, the Council may terminate the contract.

Termination shall not entitle the Provider to any compensation.

In the event of default by the Provider, not coming under the force majeure provisions set out in Article 12.4, the Council shall have the service provided by another Provider and using any appropriate means, at the Provider's expense and risk.

25.7 Termination on account of contract-related events

If the Provider encounters specific technical difficulties while supplying the deliverables, and the solution would require the implementation of resources that are disproportionate to the contract's value, the Council may terminate the contract of its own initiative or at the Provider's request.

If the Provider is unable to perform the contract on account of an event qualifying as force majeure, the Council shall terminate the contract.

25.8 Termination on grounds of the Provider's negligence

25.8.1 The Council may terminate the contract on grounds of negligence by the Provider, or, for a contract divided into lots, by each Provider separately, in the following situations:

- a. Breach by the Provider of legal or regulatory requirements in the fields of labour law or protection of the environment;
- b. Equipment, resources, objects or supplies have been entrusted to the Provider, or buildings and land have been made available to it, and the Provider finds itself in one of the situations set out in Article 14.7;
- c. The Provider's failure to perform its obligations within the contractual time-limits;
- d. The Provider has hindered the performance of a verification by the contracting authority in the context of Articles 13 and 17;
- e. The Provider has sub-contracted work in breach of the requirements of Article 2.5 concerning sub-contractors;
- f. The Provider has failed to produce insurance certificates as required under Article 5;
- g. The Provider has declared its incapacity to honour its commitments, outside the case provided for in Article 25.2.1;
- h. The Provider has failed to notify the modifications referred to in Article 2.4.2 and these modifications are such as to jeopardise the proper performance of the contract;
- i. The Provider has committed acts of fraud in the performance of the contract;
- j. The Provider or sub-contractor has failed to comply with the obligations relating to confidentiality, personal data protection and security, as required under the contract;
- k. For maintenance services, a finding of unavailability is made during three consecutive days;
- l. The Provider has delayed performing the contract to such an extent that the Council's use of the results is seriously jeopardised;
- m. Following the signature of the contract, the Provider is prohibited from carrying on an industrial or commercial occupation;
- n. Following the signature of the contract, the information or documents produced by the Provider in support of its application or bid, or which the Provider is required to produce before the contract is awarded, prove to be inaccurate.

25.8.2 Except in the cases covered by points i, m and n above, the Provider shall have been served with prior notice, along with a time-limit to respond, which has remained without effect. Upon serving notice, the Council shall inform the Provider of the sanction envisaged and invite the Provider to submit observations.

25.8.3 The termination of the contract shall not prevent any legal action that may be taken against the Provider.

25.8.4 In the cases of termination provided for above, the Council shall pay only the amount corresponding to any services effectively delivered to its full satisfaction at the time of the contract's termination and shall require the reimbursement of any amounts already paid in respect of services not delivered.

25.8.5 Amounts remaining due shall be paid into the Council's bank account within sixty (60) days of written notice having been served by the Council on the Provider.

Statement of account on termination of the contract

26.1 In the event of the contract's termination, a statement of account shall be drawn up by the Council and be notified to the Provider. Whatever the grounds of termination, the statement of account drawn up following a termination decision shall include:

26.1.1 To the Provider's debit:

- the amount of any deposits, of partial final payments and of any final settlement payment;
- the value, as laid down in the contract and any supplementary clauses, of resources entrusted to the Provider, which the latter is unable to return, and the trade-in value of any resources which the Council transfers to the Provider under an amicable settlement;

- the amount of the penalties.

26.1.2 To the Provider's credit:

The value of deliverables supplied to the Council, namely:

- the contractual value of deliverables received and accepted;
- the value of services supplied at the Council's request such as storage of supplies.

26.2 Specific provisions in the event of termination on the ground of the Provider's negligence

In the event of termination on the ground of negligence by the Provider, the statement of account on termination may also include, to the Provider's debit:

- Additional expenditure arising from the conclusion of a contract at the Provider's expense and risk under the conditions laid down in Article 28.

26.3 Notification

The statement of account shall be notified to the Provider by the Council by no later than two months following the date of effect of the contract's termination. Any late performance penalties shall be applied up to (and including) the day preceding the date of effect of the termination.

Handover of deliverables and of material resources permitting the performance of contracts

In the event of termination, the Council may require the Provider, at its own expense, to:

- hand over deliverables on which work is in progress and materials and objects held with a view to performing the contract;
- hand over any material resources specifically intended for use in performing the contract;
- implement precautionary measures, in particular storage or caretaking operations.

The Council shall inform the Provider or its successors of these requirements upon notifying the termination and shall specify the time-limit within which the Provider shall hand over these articles and the conditions under which they are to be kept pending such handover.

Supply of deliverables at the Provider's expense and risk

28.1 The Council may arrange for the deliverables to be supplied by a third party at the Provider's expense and risk if the Provider has failed to supply a deliverable which, by nature, cannot be delayed, or in the event of termination of the contract due to the Provider's fault.

28.2 If it is not possible for the Council to obtain, under acceptable conditions, deliverables which exactly correspond to those provided for in the specific contractual documents, the Council may replace them with equivalent deliverables.

28.3 A Provider concerned by a terminated contract shall not take part, either directly or indirectly, in the supply of deliverables at its expense and risk. It shall nonetheless provide any information or resources that were being utilised for the performance of the initial contract which are necessary to the performance of the contract by the third party appointed by the Council.

28.4 A cost increase in relation to the contractual price as a result of the supply of deliverables at the Provider's expense and risk shall be borne by the Provider. A decrease in costs shall not benefit the Provider.